IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5633 OF 2004

Ms.Meena S. D'za. ...Petitioner
V/s.
The Union of India & Ors. ...Respondents

Shri S.A. Bhagwat with S.J. Chitle for Petitioner.
Shri V.S. Masurkar for Respondents No.1 and 2.
Shri Girish Kulkarni with Smt.M.G. Mulkarni for Respondent No.5.
None for Respondents No.3 and 4.

CORAM : V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATED : JUNE 29, 2006

P.C. :-

. By this petition, the petitioner has made the following prayers :-

"(a) This Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate writ, order or direction be issued requiring Respondents to provide to the Petitioner the post of Receptionist/Typist or any other suitable post at Inter University Centre For Astronomy and Astrophysics, Pune, in vindication/enforcement of her right u/Sec.39 of the Persons With Disabilities (Equal opportunities, Protection of

Rights and Full Participation) Act, 1995.

(b) Petitioner be granted costs of this petition and incidentals thereof.

(c) Such other orders and further reliefs as this Hon’ble Court shall deem fit and proper under circumstances of the case be passed in favour of the Petitioner."

2. The petitioner has earlier approached the authority under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 seeking a direction to the employ the petitioner as required by that enactment. The authority by its order dated 22nd March, 2004 has observed that on the date of the order, it was not possible to direct immediate employment of the petitioner as there was no backlog of 3% reserved posts in the institute. The authority observed as under :-

" Hence, the Commissioner in exercise of his

powers u/Sec.39 of the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 passes the order that in the event of entrustment of implementation of any new project to the institute in the near future, Smt.D'sa be given appointment."

3. Learned Counsel appearing on behalf of the respondent states that as and when new project is entrusted to the respondent, the claim of the petitioner will be considered as envisaged by that act. At present, therefore, no directions can be issued. However, we deem it necessary to observe that the Act of 1995 requires employer to have 3% reservation for persons covered by the enactment. That being the mandatory provision of law, such reservation atleast in future is liable to be made. We hope and trust that separate steps in that regard will be taken by the concerned authority. Petition, accordingly, disposed of.

(V.G. PALSHIKAR, J.)

(V.M. KANADE, J.)